



---

# PRELIMINARY DRAFT

## No. 3341

PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2013 GENERAL ASSEMBLY

---

### DIGEST

**Citations Affected:** IC 6-1.1-12.

**Synopsis:** Property tax deductions. Provides that property owned by an entity other than an individual, an individual buying under contract, a cooperative housing cooperation, certain trusts, or certain entities that were eligible for the standard deduction in 2009, is eligible for the standard deduction and other property tax deductions, if: (1) the property is located in Indiana and consists of a dwelling and not more than one acre of real estate surrounding the dwelling; (2) the property is the principal place of residence of an individual; (3) the resident individual is a shareholder, partner, or member of the entity that owns the property; (4) the property was transferred by the resident individual or an ancestor of the resident individual to the entity; and (5) the property was eligible for the homestead credit (before its repeal) or the standard deduction on the most recent assessment date occurring before the date on which ownership was transferred from the individual or the individual's ancestor to the entity.

**Effective:** July 1, 2013.



A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-1.1-12-17.8, AS AMENDED BY  
2       P.L.182-2009(ss), SECTION 109, IS AMENDED TO READ AS  
3       FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17.8. (a) An individual  
4       who receives a deduction provided under section 1, 9, 11, 13, 14, 16,  
5       17.4, or 37 of this chapter in a particular year and who remains eligible  
6       for the deduction in the following year is not required to file a  
7       statement to apply for the deduction in the following year. However, for  
8       purposes of a deduction under section 37 of this chapter, the county  
9       auditor may, in the county auditor's discretion, terminate the deduction  
10      for assessment dates after January 15, 2012, if the individual does not  
11      comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined  
12      by the county auditor, before January 1, 2013. Before the county  
13      auditor terminates the deduction because the taxpayer claiming the  
14      deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9)  
15      before January 1, 2013, the county auditor shall mail notice of the  
16      proposed termination of the deduction to:

17           (1) the last known address of each person liable for any property  
18           taxes or special assessment, as shown on the tax duplicate or  
19           special assessment records; or

20           (2) the last known address of the most recent owner shown in the  
21           transfer book.

22      (b) An individual who receives a deduction provided under section  
23      1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who  
24      becomes ineligible for the deduction in the following year shall notify  
25      the auditor of the county in which the real property, mobile home, or  
26      manufactured home for which the individual claims the deduction is  
27      located of the individual's ineligibility in the year in which the  
28      individual becomes ineligible. An individual who becomes ineligible  
29      for a deduction under section 37 of this chapter shall notify the county  
30      auditor of the county in which the property is located in conformity  
31      with section 37 of this chapter.



(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 1, 9, 11, 13, 14, 16, 17.4, or 37 of this chapter to each individual who received the deduction in the preceding year unless the auditor determines that the individual is no longer eligible for the deduction.

(d) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, 17.4, or 37 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is not required to file a statement to reapply for the deduction following the removal of the joint owner if:

- (1) the individual is the sole owner of the property following the death of the individual's spouse;
- (2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or
- (3) the individual is awarded sole ownership of the property in a divorce decree.

However, for purposes of a deduction under section 37 of this chapter, if the removal of the joint owner occurs before the date that a notice described in IC 6-1.1-22-8.1(b)(9) is sent, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records or the last known address of the most recent owner shown in the transfer book.

(e) A trust entitled to a deduction under section 9, 11, 13, 14, 16, 17.4, or 37 of this chapter for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:

- (1) the individual who occupies the real property receives a deduction provided under section 9, 11, 13, 14, 16, 17.4, or 37 of this chapter in a particular year; and
- (2) the trust remains eligible for the deduction in the following year.

However, for purposes of a deduction under section 37 of this chapter, the individuals that qualify the trust for a deduction must comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013.

(f) A cooperative housing corporation (as defined in 26 U.S.C. 216) that is entitled to a deduction under section 37 of this chapter in the immediately preceding calendar year for a homestead (as defined in



section 37 of this chapter) is not required to file a statement to apply for the deduction for the current calendar year if the cooperative housing corporation remains eligible for the deduction for the current calendar year. However, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to:

- (1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or
- (2) the last known address of the most recent owner shown in the transfer book.

(g) An individual who:

- (1) was eligible for a homestead credit under IC 6-1.1-20.9 (repealed) for property taxes imposed for the March 1, 2007, or January 15, 2008, assessment date; or
- (2) would have been eligible for a homestead credit under IC 6-1.1-20.9 (repealed) for property taxes imposed for the March 1, 2008, or January 15, 2009, assessment date if IC 6-1.1-20.9 had not been repealed;

is not required to file a statement to apply for a deduction under section 37 of this chapter if the individual remains eligible for the deduction in the current year. An individual who filed for a homestead credit under IC 6-1.1-20.9 (repealed) for an assessment date after March 1, 2007 (if the property is real property), or after January 1, 2008 (if the property is personal property), shall be treated as an individual who has filed for a deduction under section 37 of this chapter. However, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book.

(h) If a county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall



reinstate the deduction if the taxpayer provides proof that the taxpayer is eligible for the deduction and is not claiming the deduction for any other property.

(i) A taxpayer described in section ~~37(k)~~ **(37)(k)(5)(A)** of this chapter is not required to file a statement to apply for the deduction provided by section 37 of this chapter for a calendar year beginning after December 31, 2008, if the property owned by the taxpayer remains eligible for the deduction for that calendar year. However, the county auditor may terminate the deduction for assessment dates after January 15, 2012, if the individual residing on the property owned by the taxpayer does not comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates a deduction because the individual residing on the property did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall mail notice of the proposed termination of the deduction to:

- (1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or
- (2) the last known address of the most recent owner shown in the transfer book.

**(j) A taxpayer described in section 37(k)(5)(B) of this chapter is not required to file a statement to apply for the deduction provided by section 9, 11, 13, 14, 16, 17.4, or 37 of this chapter for real property owned by the taxpayer and occupied by the individual described in section 37(k)(5)(B)(i) of this chapter, if:**

- (1) the individual who occupies the real property receives a deduction provided under section 9, 11, 13, 14, 16, 17.4, or 37 of this chapter in a particular year; and**
- (2) the taxpayer remains eligible for the deduction in the following year.**

SECTION 2. IC 6-1.1-12-37, AS AMENDED BY P.L.137-2012, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 37. (a) The following definitions apply throughout this section:

- (1) "Dwelling" means any of the following:
  - (A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.
  - (B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.
  - (C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.
- (2) "Homestead" means an individual's principal place of residence:
  - (A) that is located in Indiana;



(B) that:

- (i) the individual owns;
- (ii) the individual is buying under a contract; recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence;
- (iii) the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); or
- (iv) is a residence described in section 17.9 of this chapter that is owned by a trust if the individual is an individual described in section 17.9 of this chapter; and

(C) that consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

Except as provided in subsection (k), the term does not include property owned by a corporation, partnership, limited liability company, or other entity not described in this subdivision.

(b) Each year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. The deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in subsection (a)(2)(B) on:

- (1) the assessment date; or
- (2) any date in the same year after an assessment date that a statement is filed under subsection (e) or section 44 of this chapter, if the property consists of real property.

Subject to subsection (c), the auditor of the county shall record and make the deduction for the individual or entity qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

- (1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or
- (2) forty-five thousand dollars (\$45,000).

(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) Except as provided in sections 17.8 and 44 of this chapter and subject to section 45 of this chapter, an individual who desires to claim



the deduction provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement must include:

- (1) the parcel number or key number of the property and the name of the city, town, or township in which the property is located;
- (2) the name of any other location in which the applicant or the applicant's spouse owns, is buying, or has a beneficial interest in residential real property;
- (3) the names of:

- (A) the applicant and the applicant's spouse (if any):

- (i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

- (ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is an individual; or

- (B) each individual who qualifies property as a homestead under subsection (a)(2)(B) and the individual's spouse (if any):

- (i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

- (ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is not an individual; and

- (4) either:

- (A) the last five (5) digits of the applicant's Social Security number and the last five (5) digits of the Social Security number of the applicant's spouse (if any); or

- (B) if the applicant or the applicant's spouse (if any) do not have a Social Security number, any of the following for that individual:

- (i) The last five (5) digits of the individual's driver's license number.

- (ii) The last five (5) digits of the individual's state identification card number.

- (iii) If the individual does not have a driver's license or a state identification card, the last five (5) digits of a control number that is on a document issued to the individual by the federal government and determined by the department of local government finance to be acceptable.

If a form or statement provided to the county auditor under this section, IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or part or all of the Social Security number of a party or other number



described in subdivision (4)(B) of a party, the telephone number and the Social Security number or other number described in subdivision (4)(B) included are confidential. The statement may be filed in person or by mail. If the statement is mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the deduction is allowed. With respect to real property, the statement must be completed and dated in the calendar year for which the person desires to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. With respect to a mobile home that is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of the year for which the person desires to obtain the deduction.

(f) If an individual who is receiving the deduction provided by this section or who otherwise qualifies property for a deduction under this section:

(1) changes the use of the individual's property so that part or all of the property no longer qualifies for the deduction under this section; or

(2) is no longer eligible for a deduction under this section on another parcel of property because:

(A) the individual would otherwise receive the benefit of more than one (1) deduction under this chapter; or

(B) the individual maintains the individual's principal place of residence with another individual who receives a deduction under this section;

the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use, not more than sixty (60) days after the date of that change. An individual who fails to file the statement required by this subsection is liable for any additional taxes that would have been due on the property if the individual had filed the statement as required by this subsection plus a civil penalty equal to ten percent (10%) of the additional taxes due. The civil penalty imposed under this subsection is in addition to any interest and penalties for a delinquent payment that might otherwise be due. One percent (1%) of the total civil penalty collected under this subsection shall be transferred by the county to the department of local government finance for use by the department in establishing and maintaining the homestead property data base under subsection (i) and, to the extent there is money remaining, for any other purposes of the department. This amount becomes part of the property tax liability for purposes of this article.

(g) The department of local government finance shall adopt rules or guidelines concerning the application for a deduction under this section.

(h) This subsection does not apply to property in the first year for





which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on March 1 in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on March 1 in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application. Except as provided in subsection (n), the county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and

(2) the applications claim the deduction for different property.

(i) The department of local government finance shall provide secure access to county auditors to a homestead property data base that includes access to the homestead owner's name and the numbers required from the homestead owner under subsection (e)(4) for the sole purpose of verifying whether an owner is wrongly claiming a deduction under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or IC 6-3.5.

(j) A county auditor may require an individual to provide evidence proving that the individual's residence is the individual's principal place of residence as claimed in the certified statement filed under subsection (e). The county auditor may limit the evidence that an individual is required to submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence. The department of local government finance shall work with county auditors to develop procedures to determine whether a property owner that is claiming a standard deduction or homestead credit is not eligible for the standard deduction or homestead credit because the property owner's principal place of residence is outside Indiana.

(k) As used in this section, "homestead" includes property that satisfies each of the following requirements:

(1) The property is located in Indiana and consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

(2) The property is the principal place of residence of an individual.

(3) The property is owned by an entity that is not described in subsection (a)(2)(B).

(4) The individual residing on the property is a shareholder, partner, or member of the entity that owns the property.

**(5) Either of the following requirements are satisfied by the**



**property:**

(A) The property was eligible for the standard deduction under this section on March 1, 2009.

**(B) The property satisfies both of the following requirements:**

(i) The property was transferred by an individual described in subdivision (2) or an ancestor of that individual to the entity described in subdivision (4).

(ii) The property was eligible for the homestead credit provided under IC 6-1.1-20.9 (before its repeal) or the standard deduction under this section on the most recent assessment date occurring before the date on which ownership was transferred from the individual or the individual's ancestor to the entity.

(l) If a county auditor terminates a deduction for property described in subsection ~~(k)~~ **(k)(5)(A)** with respect to property taxes that are:

(1) imposed for an assessment date in 2009; and

(2) first due and payable in 2010;

on the grounds that the property is not owned by an entity described in subsection (a)(2)(B), the county auditor shall reinstate the deduction if the taxpayer provides proof that the property is eligible for the deduction in accordance with subsection ~~(k)~~ **(k)(5)(A)** and that the individual residing on the property is not claiming the deduction for any other property.

(m) For assessments dates after 2009, the term "homestead" includes:

(1) a deck or patio;

(2) a gazebo; or

(3) another residential yard structure, as defined in rules adopted by the department of local government finance (other than a swimming pool);

that is assessed as real property and attached to the dwelling.

(n) A county auditor shall grant an individual a deduction under this section regardless of whether the individual and the individual's spouse claim a deduction on two (2) different applications and each application claims a deduction for different property if the property owned by the individual's spouse is located outside Indiana and the individual files an affidavit with the county auditor containing the following information:

(1) The names of the county and state in which the individual's spouse claims a deduction substantially similar to the deduction allowed by this section.

(2) A statement made under penalty of perjury that the following are true:

(A) That the individual and the individual's spouse maintain separate principal places of residence.



(B) That neither the individual nor the individual's spouse has an ownership interest in the other's principal place of residence.

(C) That neither the individual nor the individual's spouse has, for that same year, claimed a standard or substantially similar deduction for any property other than the property maintained as a principal place of residence by the respective individuals.

A county auditor may require an individual or an individual's spouse to provide evidence of the accuracy of the information contained in an affidavit submitted under this subsection. The evidence required of the individual or the individual's spouse may include state income tax returns, excise tax payment information, property tax payment information, driver license information, and voter registration information.

(o) If:

(1) a property owner files a statement under subsection (e) to claim the deduction provided by this section for a particular property; and

(2) the county auditor receiving the filed statement determines that the property owner's property is not eligible for the deduction; the county auditor shall inform the property owner of the county auditor's determination in writing. If a property owner's property is not eligible for the deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the county property tax assessment board of appeals as provided in IC 6-1.1-15. The county auditor shall inform the property owner of the owner's right to appeal to the county property tax assessment board of appeals when the county auditor informs the property owner of the county auditor's determination under this subsection.

SECTION 3. IC 6-1.1-12-37.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 37.1. A person who is entitled to a standard deduction from the assessed value of property under section 37(k)(5)(B) of this chapter is also entitled to a deduction under section 9, 11, 13, 14, 16, or 17.4 of this chapter for real property owned by the person and occupied by the individual described in section 37(k)(5)(B)(i) if the county auditor determines that the individual otherwise qualifies for the deduction.**

